

# ARKANSAS SUPREME COURT

No. CR 06-1060

NOT DESIGNATED FOR PUBLICATION

Opinion Delivered      October 26, 2006

JIM McDONALD  
Petitioner

*PRO SE* MOTION FOR RULE ON  
CLERK [CIRCUIT COURT OF  
CARROLL COUNTY, EASTERN  
DISTRICT, CR 2002-89, HON. ALAN  
D. EPLEY, JUDGE]

v.

STATE OF ARKANSAS  
Respondent

MOTION DENIED

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## PER CURIAM

In 2004, petitioner Jim McDonald entered a plea of guilty to rape. He elected to be sentenced by a jury and was sentenced to life imprisonment. We affirmed. *McDonald v. State*, 364 Ark. 491, \_\_\_ S.W.3d \_\_\_ (2006).

Subsequently, petitioner timely filed in the trial court a *pro se* petition for postconviction relief under Ark. R. Crim. P. 37.1, which was denied on March 31, 2006. Petitioner timely filed a *pro se* notice of appeal from the order on April 13, 2006, but did not tender the record to this court until August 7, 2006, 116 days after the notice was filed. A record must be tendered within ninety days of the date of the notice of appeal in accordance with the time limit set in Ark. R. App. P.--Civ. 5(a), as applied through Ark. R. App. P.--Crim. 4(a), unless the circuit court granted an extension of time. The record does not reflect, and petitioner does not contend that any extensions were granted in the instant case. Thus, the record should have been tendered to this court no later than July 12, 2006.

Now before is petitioner's *pro se* motion for rule on clerk seeking to lodge the record belatedly. Petitioner places the fault for the untimely tender of the record on the circuit clerk. He further asks that his failure to perfect the appeal be excused because he was proceeding without the services of an attorney.

It is well settled that it is not the duty of the circuit clerk, or the responsibility of anyone other than the petitioner, to perfect an appeal. *See Sullivan v. State*, 301 Ark. 352, 784 S.W.2d 155 (1990) (*per curiam*); *Bragg v. State*, 297 Ark. 348, 760 S.W.2d 878 (1988) (*per curiam*). We have held that there are only two possible reasons for an appeal not to be timely, either the party or attorney filing the appeal is at fault or there is good reason. *McDonald v. State*, 356 Ark. 106, 146 S.W.3d 883 (2004).

Petitioner here has stated no good reason for the failure to timely tender the record, and he is clearly at fault. All litigants, including those who proceed *pro se*, must bear responsibility for conforming to the rules of procedure or demonstrating a good cause for not doing so. *Peterson v. State*, 289 Ark. 452, 711 S.W.2d 830 (1986) (*per curiam*); *Walker v. State*, 283 Ark. 339, 676 S.W.2d 460 (1984) (*per curiam*); *Thompson v. State*, 280 Ark. 163, 655 S.W.2d 424 (1983) (*per curiam*). *See also Tarry v. State*, 353 Ark. 158, 114 S.W.3d 161 (2003) (*per curiam*). Accordingly, the motion for rule on clerk is denied.

Motion denied.